

**REMARKS**

In the Final Office Action<sup>1</sup>, the Examiner rejected claims 2 and 4-9 under 35 U.S.C. §103(a) as being unpatentable over *Satsukawa et al.* (U.S. 6,379,249, "*Satsukawa*"), *Kami et al.* (US 5,853,324, "*Kami*"), and *Farkas* (Diablo II Ultimate Strategy Guide, "*Farkas*") and in further in view of *Matsuyama et al.* (U.S. Patent No. 6,582,299, "*Matsuyama*"). Claims 7 and 8 have been amended. Claims 2 and 4-9 remain pending.

**I. Regarding the rejection of claims 2 and 4-9 under 35 U.S.C. § 103(a) as being unpatentable over *Satsukawa*, *Kami*, *Farkas* and in further view of *Matsuyama***

Applicant respectfully traverses the Examiner's rejection of claims 2 and 4-9 under 35 U.S.C. § 103(a) as being unpatentable over *Satsukawa*, *Kami*, and *Farkas* in view of *Matsuyama*. A *prima facie* case of obviousness has not been established with respect to these claims.

"The key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. . . . [R]ejections on obviousness cannot be sustained with mere conclusory statements." M.P.E.P. § 2142, 8th Ed., Rev. 6 (Sept. 2007) (internal citation and inner quotation omitted). "The mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art." M.P.E.P. § 2143.01(III) (emphasis in original). "In determining the differences between the prior art and the claims, the question under

35 U.S.C. § 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious.” M.P.E.P. § 2141.02(I) (emphasis in original).

“[T]he framework for objective analysis for determining obviousness under 35 U.S.C. § 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 U.S.P.Q. 459 (1966). . . . The factual inquires . . . [include determining the scope and content of the prior art and] . . . [a]scertaining the differences between the claimed invention and the prior art.” M.P.E.P. § 2143.01(II). “Office personal must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art.” M.P.E.P. § 2143.01(III).

Applicants respectfully request that the Examiner reconsider and withdraw the rejection of claims 2 and 4-9 under 35 U.S.C. § 103(a) because a *prima facie* case of obviousness has not been established with respect to these claims. The differences between the claimed invention and the prior art have not been properly ascertained. Accordingly, no proper reason has been articulated as to why said differences would have been obvious to one skilled in the art at the time of invention.

Claim 7 recites a computer program product including, “changing the time scale such that a display speed of at least the enemy-character and each one of the bullets fired from the enemy-character become slower when the visual effect request about the time scale is input, wherein the time scale changes regardless of whether the bullets fired hit the enemy-character” (emphasis added).

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<sup>1</sup> The Final Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement or characterization in the Final Office Action.

The Examiner correctly states "Satsukawa and Kami . . . [are] silent with respect to stating an ability to change a time scale 'such that a display speed of at least the enemy-character and each one of the bullets fired from the enemy-character become slower when the visual effect request is input'." Final Office Action, p. 4. However, the Examiner alleges that *Farkas* teaches these elements. This is not correct.

*Farkas* also fails to disclose "changing the time scale such that a display speed of at least the enemy-character and each one of the bullets fired from the enemy-character become slower when the visual effect request about the time scale is input, wherein the time scale changes regardless of whether the bullets fired hit the enemy-character" as recited in independent claim 7 (emphasis added). *Farkas* instead discloses "Frost Nova generates an icy shockwave that spreads out in all directions around your Sorceress, freezing all target it hits as it travels outward from your position," (emphasis added, FROST NOVA, p. 73). Therefore, the alleged "time scale" in *Farkas* occurs only when an enemy target is successfully hit. In contrast, claim 7 recites "changing the time scale such that a display speed of at least the enemy-character and each one of the bullets fired from the enemy-character become slower when the visual effect request about the time scale is input, wherein the time scale changes regardless of whether the bullets fired hit the enemy-character" (emphasis added). *Farkas* fails to teach at least this claim element.

*Matsuyama* also fails to cure the deficiencies of independent claim 7. The Examiner states "[a]s taught in Matsuyama et al. the time limit of the scale is important when determining a character has been hit with a projectile. By incorporating the teachings of *Farkas* with that of the shooting games of Satsukawa, Kami and

Matsuyama to create an advantage by changing the speed of enemy characters or the speed of player characters one can be given a sizeable advantage in the play of a game." *Matsuyama* fails to remedy the admitted deficiencies of *Satsukawa*, *Kami*, and *Farkas*. *Matsuyama* appears to disclose a story mode in which it is determined whether a game has reached its time limit (col. 10, lines 6-10) and a skill mode in which movement of enemy characters is sped up (col. 12, lines 31-32). In contrast, claim 7 requires "changing the time scale such that a display speed of at least the enemy-character and each one of the bullets fired from the enemy-character become slower when the visual effect request about the time scale is input, wherein the time scale changes regardless of whether the bullets fired hit the enemy-character" (emphasis added). *Matsuyama* fails to teach or even suggest at least this claim element, and thus fails to remedy the admitted deficiencies of *Satsukawa*, *Kami*, and *Farkas*.

In view of the mischaracterization of the prior art, as set forth above, the scope and content of the prior art has not been properly determined, and the differences between the prior art and the claims not been properly ascertained. Accordingly, no reason has been articulated as to why one of ordinary skill in the art would find it obvious to achieve the claimed combinations, having only the benefit of the prior art. Therefore, no *prima facie* case of obvious has been established and the rejection of independent claim 7 under 35 U.S.C. § 103 must be withdrawn. Claims 2 and 4-6 are also allowable at least due to their dependance from claim 7. Independent claim 8, while of different scope from claim 7, recites elements similar to those of claim 7 and is

thus also allowable over *Satsukawa*, *Kami*, *Farkas*, and *Matsuyama* for reasons at least similar to those discussed above for claim 7.

### **CONCLUSION**

Applicant respectfully requests that this Amendment under 37 C.F.R. § 1.116 be entered by the Examiner, placing claims 2 and 4-9 in condition for allowance. Applicant submits that the proposed amendments of claims 2 and 4-9 do not raise new issues or necessitate the undertaking of any additional search of the art by the Examiner, since all of the elements and their relationships claimed were either earlier claimed or inherent in the claims as examined. Therefore, this Amendment should allow for immediate action by the Examiner.

Furthermore, Applicant respectfully points out that the final action by the Examiner presented some new arguments as to the application of the art against Applicant's invention. It is respectfully submitted that the entering of the Amendment would allow the Applicant to reply to the final rejections and place the application in condition for allowance.

Finally, Applicant submits that the entry of the amendment would place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims.

In view of the foregoing remarks, Applicant submits that this claimed invention, as amended, is neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicant therefore requests the entry of this Amendment, the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.


Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account 06-0916.

Respectfully submitted,

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By: \_\_\_\_\_

  
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